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October 9, 1998

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OCT - 9 1998

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

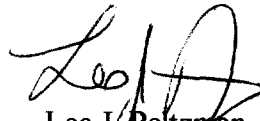
Re: Amendment of Section 73.202(b)
Table of Allotments, FM Broadcast Stations
(Lordsburg and Hurley, New Mexico)

Dear Ms. Salas:

Transmitted herewith, on behalf of BBC Radio, permittee of a station authorized to operate on Channel 289C3, Lordsburg, New Mexico, is an original and four (4) copies of its Petition for Rulemaking.

Should any questions arise concerning this matter, kindly communicate with the undersigned.

Sincerely yours,


Lee J. Peltzman
Counsel for
BBC Radio

Enclosure

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OCT - 9 1998

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. _____
Table of Allotments,) RM- _____
FM Broadcast Stations.)
(Lordsburg and Hurley, New Mexico))

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

PETITION FOR RULEMAKING

BBC Radio ("Petitioner"), permittee of a station authorized to operate on Channel 289C3 at Lordsburg, New Mexico, by its counsel and pursuant to Section 1.420 of the Commission's rules, hereby requests that the Commission amend Section 73.202(b) of the Commission's rules to reallocate Channel 289C3, Lordsburg, New Mexico to Channel 288C1, Hurley, New Mexico, and modify the station authorization accordingly. In support thereof, the following is respectfully shown:

1. Hurley, New Mexico is a community with 1,534 residents. It is located in the center of Grant County, New Mexico. Hurley has a functioning city government. It has an elected Mayor and a four-member City Council. The city operates three public parks and a city swimming pool. It has its own elementary school (Hurley School). It operates its own Police Department and has social and community organizations such as the Masonic Lodge and the League of United Latin American Citizens (LULAC). It is also home to numerous retail businesses. See attached Technical Statement. Therefore, Hurley should be treated as a

community for allotment purposes. No AM or FM stations are currently licensed to Hurley, either commercial or non-commercial. Consequently, the allocation of Channel 288C1 to Hurley, New Mexico will constitute its first local service.

2. In comparison, Lordsburg, New Mexico is adequately served. Station KQTN(FM) is licensed to Lordsburg. Consequently, the proposed reallocation of Channel 289C3 from Lordsburg to Hurley will not deprive Lordsburg of its sole local existing service.

3. Further, the proposed reallocation complies with the Commission's rules and will serve the Commission's allotment priorities and the public interest. In Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989), rec. granted in part, 5 FCC Rcd 7094 (1990) (hereinafter "Community of License"), the Commission stated the proposed channel must be mutually exclusive with the existing channel and the new community must be preferred over the existing community under the Commission's allotment priorities. As indicated in the attached Technical Statement, the proposed allotment of Channel 2881C at Hurley is mutually exclusive with the current authorization of Channel 289C3 at Lordsburg. Further, the new community, Hurley, will obtain a first local service, whereas Lordsburg will retain existing transmission service, as Station KQTN(FM) is licensed to Lordsburg and one additional commercial FM channel is allotted to that community. Thus, the reallocation will not deprive Lordsburg of local transmission service. Under the Commission's allotment criteria, a first local service is preferred over additional local services. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). Significantly, the reallocation will not remove service from a rural area to serve an

urban area, since Hurley is not located within any urbanized area. It is not a suburb of any larger community but rather an independent community that deserves its own local radio station.

4. In addition, it should be noted that the Channel 289C3 authorization at Lordsburg has not been licensed to operate; thus, this reallocation request will not cause any disruption to an "existing service." See Douglas, Tifton and Unionville, Georgia, 10 FCC Rcd 7706 (1995); Sanibel and San Carlos Park, Florida, 10 FCC Rcd 7215 (1995); Midway, Panacea and Quincy, Florida, 10 FCC Rcd 6112 (1995); Pawley's Island and Atlantic Beach, South Carolina, 8 FCC Rcd 8657 (1993).

5. As indicated in the attached Technical Statement, the proposed operation will provide 1 mV/m service to 45,940 persons in 16,480 square kilometers, which represents an increase of 42,570 persons and 15,108 square kilometers over its presently authorized facilities. Consequently, the instant proposal will not only provide a first local service to an independent community deserving of service, but also will represent a 1400% increase in population served by this new station. Petitioner submits that its proposal is decidedly in the public interest.

6. Petitioner hereby states that should Commission grant the instant proposal to reallocate Channel 289C3 at Lordsburg to Channel 288C1 at Hurley, New Mexico, and modify its station permit accordingly, Petitioner will file an application for the new facilities and will implement that application expeditiously.

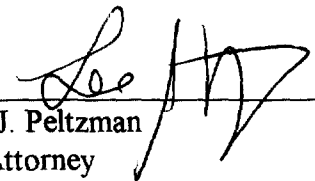
WHEREFORE, BBC Radio respectfully requests that the Commission amend its Table of Allotments to reallocate Channel 289C3 at Lordsburg to Channel 288C1 at Hurley, New Mexico.

Respectfully submitted,

BCC RADIO

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202/293-0011

By:



Lee J. Peltzman
Its Attorney

October 9, 1998

Petition for Rule Making

BBC Radio

BPH-970725MO

RE-ALLOCATION of Channel 289C3, Lordsburg, NM to Channel 288C1, Hurley,

NM

October 1998

Petition for Rule Making
BBC Radio BPH-970725MO
RE-ALLOCATION of
Channel 289C3, Lordsburg, NM to Channel 288C1, Hurley, NM
October 1998

Technical Statement

This statement and the attached exhibits were prepared on behalf of BBC Radio ("BBC"), permittee of Channel 289C3, Lordsburg, New Mexico (BPH-970725MO). BBC herein requests an amendment to Section 73.202 of the Commissions rules by re-allotting Channel 289C3, Lordsburg, New Mexico to Channel 288C1, Hurley, New Mexico. The allocation of Channel 288C1 to Hurley, New Mexico will provide the community with its first local aural service. The allocation of Channel 288C1 to Hurley is mutually exclusive with the present Channel 289C3 permit for Lordsburg, New Mexico. Hurley is not near any Urbanized Area, and the re-allotment will not deprive Lordsburg of its only local service as detailed below.

Background

Hurley, New Mexico is listed in the 1990 U.S. Census as a census designated place with a population of 1,534 people. Hurley has its own post office and zip code. Hurley has a Police Department of five officers, a Mayor and four City Councilmen, a Municipal Judge, and a Town Clerk. The City of Hurley operates three public parks and a city swimming pool. Hurley has an elementary school (Hurley School), and a railroad depot. Hurley community organizations include the Hurley Community center, Masonic Lodge, and League of United Latin American Citizens. The community is home to numerous retail businesses including a Norwest Bank, restaurants, motel, video rental, auto repair, bar, and beauty shop. It is also the home of the main office of Chino Mines, as well as the Chino Mine Training Center. There are presently no licensed AM or FM stations allocated to Hurley.

Request

Channel 288C1 can be allotted to Hurley, New Mexico at reference coordinates North Latitude 37° 47' 00" and West Longitude 108° 08' 30". This reflects a site restriction of 3 kilometers to avoid short spacing to the Mexican allocation for Channel 288B in El Porvenir, CH. Exhibit #1 is a Section 73.207 spacing study which shows that Channel 288C1 meets the Commission's minimum distance separation requirements to all licensed, applied for, or proposed facilities, as well as foreign allocations. From the reference coordinates, Channel 288C1 will provide 70 dBu signal to the entire city of Hurley as shown in Exhibit #2.

Conclusion

Therefore, BBC requests the following change to Section 73.202(b) of the Commission's rules:

Lordsburg, New Mexico

<u>Present</u>	<u>Proposed</u>
250C, 279C3, 289C3	250C, 279C3

Hurley, New Mexico

<u>Present</u>	<u>Proposed</u>
None	288C1

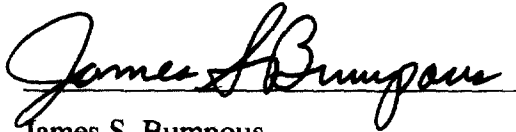
Public Interest

The re-allotment of Channel 288C1 to Hurley, New Mexico will provide the community with its first local service, and will not deprive Lordsburg of its only service since station KQTN will remain, as well as a vacant allocation for Channel 279C3. As a class C1 allocation on Channel 288, this station will provide 1.0 mV/m service to 45,940 people in 16,480 square kilometers. This represents an increase of 42,570 persons in 15,108 square kilometers over the presently permitted facility.

Preparation

The foregoing statement was prepared on behalf of BBC Radio by James S. Bumpous, a partner in BBC Radio, and all information contained herein is true and correct to the best of my belief. My qualifications are a matter of record before the Federal Communications Commission.

BBC Radio intends to apply for Channel 288C1 in Hurley, New Mexico if allocated, and will promptly construct those facilities that are authorized.



James S. Bumpous

Partner, BBC Radio

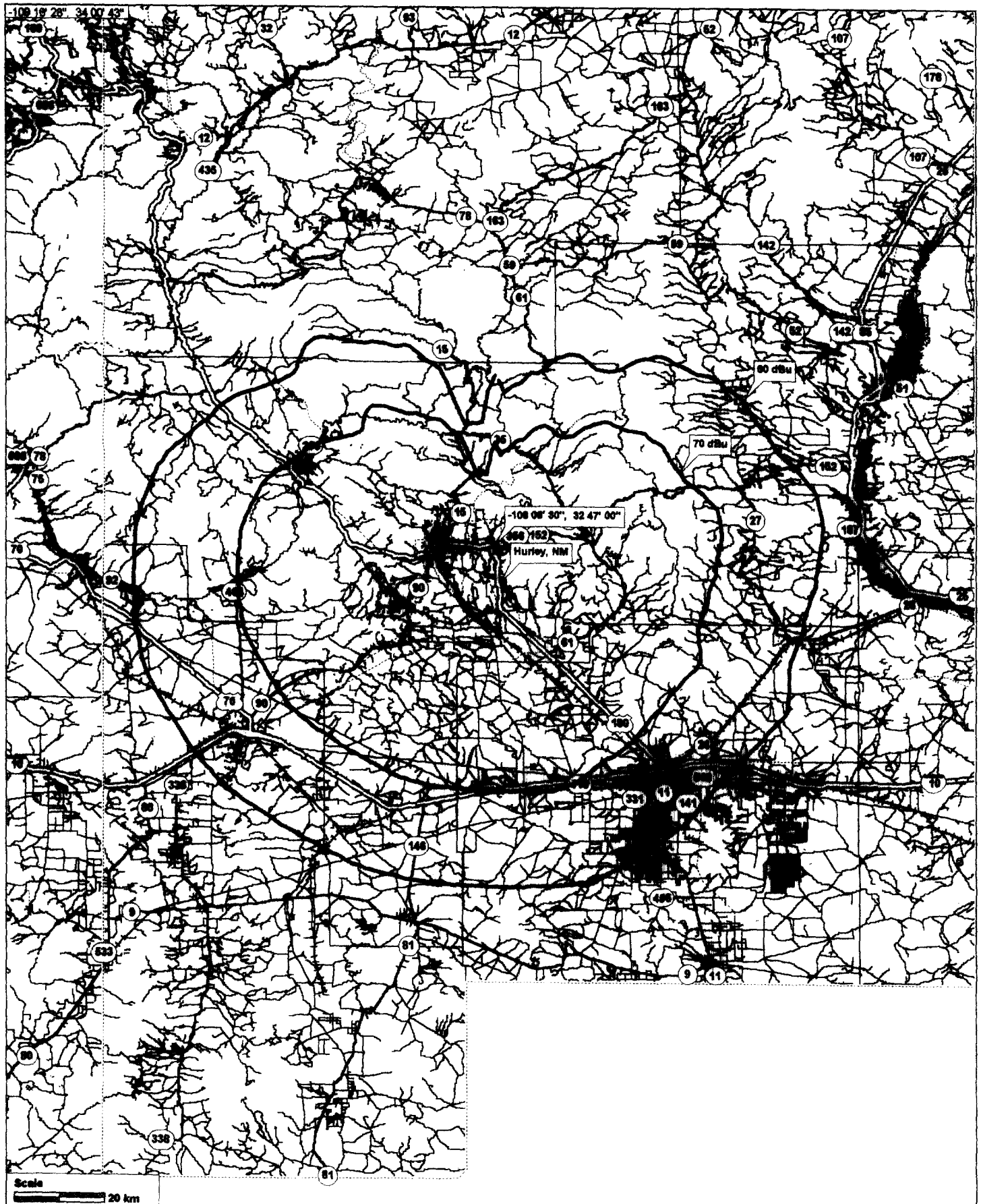
Date 10/5/98

EXHIBIT #1

Search of channel 288C1 (105.5 MHz), at N. 32 47 0, W. 108 8 30.

CALL	CITY	ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
ALC	El Paso	TX	234	C	U	191.2	41.0	125.1	150.2
KATH	El Paso	TX	234	C	L	191.2	41.0	125.1	150.2
ALC	Willcox	AZ	285	C2	U	153.2	79.0	253.0	74.2
K285BF	Clifton, etc.	AZ	285	D	L	110.3	0.0	276.0	110.3
KWCX	Willcox	AZ	285	C2	C	151.4	79.0	245.5	72.4
ALC	Mesilla Park	NM	285	A	U	136.7	74.0	113.0	62.7
KMVR	Mesilla Park	NM	285	A	L	136.7	74.0	113.0	62.7
ALC	Ciudad Juarez	CH	286	B1		197.3	77.0	127.5	120.3
XHIMFM	Ciudad Juarez	CH	286	B1		197.3	77.0	127.5	120.3
ALC	Kearny	AZ	287	C2	U	227.9	158.0	270.9	69.9
KZLZ	Kearny	AZ	287	C2	L	227.5	158.0	271.2	69.5
ALC	Alamogordo	NM	287	C2	V	205.4	158.0	86.8	47.4
KZZX	Alamogordo	NM	287	C2	A	205.5	158.0	86.8	47.5
ALC	El Porvenir	CH	288	B		273.5	270.0	127.9	3.5
ALC	Nacozari de Garcia	SO	288	B		305.5	270.0	209.1	35.5
ALC	Casa Grande	AZ	288	C2	U	357.9	224.0	273.8	133.9
KLVA	Casa Grande	AZ	288	C2	L	360.1	224.0	273.9	136.1
ALC	Grants	NM	288	C	U	259.2	270.0	8.8	-10.8
KQLV	Grants	NM	288	C	D	271.5	270.0	10.6	1.5
KQLV	Peralta	NM	288	C1	A	255.0	245.0	28.8	10.0
KQLV	Grants	NM	288	C	C	271.5	270.0	10.6	1.5
KZZX	Alamogordo	NM	288	A	L	205.4	196.0	86.8	9.4
ALC	Lordsburg	NM	289	C3	U	72.1	144.0	227.8	-71.9
NEW	Lordsburg	NM	289	C3	C	74.1	144.0	229.2	-69.9
ALC	Ciudad Juarez	CH	290	C		195.1	102.0	126.0	93.1
XHGUFM	Ciudad Juarez	CH	290	C		195.1	102.0	126.0	93.1
ALC	Fronteras	SO	291	C		248.5	102.0	213.0	146.5

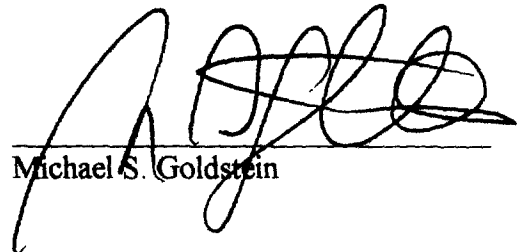
HURLEY 288 C1..... EXHIBIT #2



CERTIFICATE OF SERVICE

I, Michael S. Goldstein, Secretary, of the law firm of Shainis & Peltzman, Chartered, do hereby certify that a copy of the foregoing document was hand-delivered on this 9th day of October, 1998, to the following:

John A. Karousos *
Federal Communications Commission
Mass Media Bureau
Room 554
2000 M Street, N.W.
Washington, D.C. 20554



Michael S. Goldstein